

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

Life Beyond Borders Rehabilitation
Petitioner

File No. 21-1691

v

Auto Club Insurance Association
Respondent

Issued and entered
this 2nd day of February 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On November 2, 2021, Life Beyond Barriers Rehabilitation (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Auto Club Insurance Association (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner bill denials on August 5 and 9, 2021, and September 1, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 22, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 22, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on January 3, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 24, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on July 14, 19, and 26, 2021 and August 9, 2021. The Petitioner billed the treatments under procedure code 97110, 97140, and 97542, which are described as therapeutic exercise, manual therapy, and wheelchair management, respectively. In its *Explanation of Review* letters issued to the Petitioner, the Respondent denied payment on the basis that the “medical records do not support this request, as the [injured person] has received 106 therapy sessions since the evaluation and there is no documentation of ongoing functional improvement from treatment” in accordance with Official Disability Guidelines (ODG).

With its appeal request, the Petitioner submitted documentation that identified the injured person’s diagnoses as incomplete quadriplegia at C5-C7 following a June 1996 motor vehicle accident. With its submitted documentation, the Petitioner stated that the injured person attended physical therapy to address the following physical and functional impairments: severe scoliosis, low back pain and bilateral hip pain, decreased range of motion of the bilateral hips and ankles, impaired respiration with increase in accessory muscle use and resulting cervical pain, severe spasticity with associated pain, poor fine motor control, poor seated balance without use of upper extremity support, poor trunk stability, and management of custom wheelchair seating system.

Further, the Petitioner’s request for an appeal stated:

As a skilled practitioner of Physical Therapy and under the practice of the American Physical Therapy association, the performance of intervention to prevent deterioration, improve independence, and maintain physical wellness when the injured person is unable to safely perform them by themselves or with a caretaker, is medically necessary and reasonable. The assumption of “gait abnormalities” as described in the denial is not what was described in [the injured person’s] goals nor was it a treatment diagnosis code used on her case. The denial based on this is not appropriate and will impact [the injured person’s] quality of life, longevity, wellness and overall health. ODG does not take into consideration the need of skilled services to maintain the [injured person’s] condition or to prevent or slow further deterioration. Skilled interventions will be imperative in maintaining [the injured person’s] level of independence and baseline level of health.

In its reply, the Respondent reaffirmed its denial and stated:

The medical records do not support this request. It appears, per documentation, that physical therapy treatment has been provided ongoing for over 100 sessions and since 11/9/2019. Per the provided documentation, [the injured person] “continues with severe scoliosis, back and bilateral hip pain, decreased range of motion, spasticity.” Also noted were subjective reports of “2-7/10 pain of shoulder/neck, low back and left side achy and stiff in nature.” The Physical Therapy treatment well exceeds the [American College of Occupational and Environmental Medicine] and ODG guideline quantity recommendations for pain.

Opportunity has been given to establish and reinforce an activity and exercise program.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is licensed and practices in the field of physical therapy with knowledge in the care of injured parties involved in a motor vehicle accident with spinal cord injuries and scoliosis. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on American Physical Therapy Association (APTA) practice guidelines and medical literature for its recommendation.

The IRO reviewer opined that the most appropriate practice guidelines for the injured person's clinical scenario are the Standards of Practice for Physical Therapy guidelines from the APTA. The IRO reviewer opined that the practice guidelines address the need for "ongoing care in a chronic, long-life diagnosis," such as in the injured person's case, and notes that there "is limited to no evidence for the ability of physical therapy (PT) to slow the progression of scoliosis."

The IRO reviewer further explained that there is "minimal to moderate evidence for PT to deal with associated pain and discomfort resulting from scoliosis." The IRO reviewer opined that "therapeutic exercises and functional training is deemed" to be the most appropriate treatment for the injured person, "possibly along with durable medical equipment modification for wheelchair positioning." The IRO reviewer noted that while the injured person received treatments and interventions, there was limited enforcement of the home exercise program (HEP) and manual therapy was not appropriate or useful.

The IRO reviewer opined that the treatments rendered were overutilized in nature, and the injured person was inconsistent with treatment participation. Specifically, the IRO reviewer noted:

Finally, [the injured person] did not have an adequate progression to HEP which would reduce the burden of care, reduce risk for functional decline, and provide training to maintain gains made in therapy. As per APTA guidelines, [the injured person] would be most appropriate for 4-6 visits for a HEP revision and possibly 2-3 visits for wheelchair management training. Manual therapy is not recommended or supported by evidence in this case. No objective measures were taken to demonstrate improvement with therapy and to justify care for [the injured person]. Furthermore, there is limited evidence in PT literature that PT can slow the progression of scoliosis. There is some evidence that functional training and therapeutic exercises may reduce pain and limitations in motion.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the physical therapy treatments provided to the injured person on the dates of service at issue were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director uphold the Respondent's determinations dated August 5 and 9, 2021, and September 1, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford